



Atty Dkt. No. LIFE-029
USSN: 09/974,597

Receipt
S 10/16

CERTIFICATE OF MAILING			
I hereby certify that this correspondence is being deposited with the United States Postal Service as first class mail in an envelope addressed to: Commissioner for Trademarks, 2900 Crystal Drive, Arlington, VA 22202-3515.			
Typed or Printed Name	Donna Macedo		
Signature	<i>Donna Macedo</i>	Date	9/30/02
REQUEST FOR CORRECTED FILING RECEIPT Address to: Commissioner for Patents Washington, D.C. 20231		Attorney Docket	LIFE-029
		Applicant	Mahyar Z. Kermani et al.
		Serial Number	09/974,597
		Filing Date	October 10, 2001
		Group Art Unit	1741
		Examiner Name	Unassigned
		Title	Determination of Sample Volume Adequacy in Biosensor Devices

Sir:

A filing receipt for the above-identified patent application has been issued by the U.S. Patent and Trademark Office (marked-up copy attached) and has been found to contain the following error(s):

- (1) Please correct the Filing Date to read "October 10, 2001" as indicated on the Decision Granting Petition, Paper No. 10, dated July 23, 2002 (copy enclosed).

If for any reason a fee is found to be necessary, the Commissioner is authorized to charge such fee to Deposit Account No. 50-0815.

Respectfully submitted,
BOZICEVIC, FIELD & FRANCIS LLP

Date: 9/30/02

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LFS-122

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UNITED STATES PATENT AND TRADEMARK OFFICE

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WASHINGTON, D.C. 20231
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APPLICATION NUMBER	FILING DATE	GRP ART UNIT	FIL FEE REC'D	ATTY. DOCKET NO	DRAWINGS	TOT CLAIMS	IND CLAIMS
09/974,597	01/17/2002 10/10/01	1741	1494	LIFE-029	4	36	7

CONFIRMATION NO. 7123

REPLACEMENT FILING RECEIPT



OC000000008821864

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Date Mailed: 09/19/2002

Receipt is acknowledged of this nonprovisional Patent Application. It will be considered in its order and you will be notified as to the results of the examination. Be sure to provide the U.S. APPLICATION NUMBER, FILING DATE, NAME OF APPLICANT, and TITLE OF INVENTION when inquiring about this application. Fees transmitted by check or draft are subject to collection. Please verify the accuracy of the data presented on this receipt. If an error is noted on this Filing Receipt, please write to the Office of Initial Patent Examination's Filing Receipt Corrections, facsimile number 703-746-9195. Please provide a copy of this Filing Receipt with the changes noted thereon. If you received a "Notice to File Missing Parts" for this application, please submit any corrections to this Filing Receipt with your reply to the Notice. When the USPTO processes the reply to the Notice, the USPTO will generate another Filing Receipt incorporating the requested corrections (if appropriate).

Applicant(s)

Mahyar Z. Kermani, Pleasanton, CA;
Maria Teodorczyk, San Jose, CA;
Sherry X. Guo, San Jose, CA;

Domestic Priority data as claimed by applicant

Foreign Applications

If Required, Foreign Filing License Granted 11/09/2001

Projected Publication Date: 07/17/2003

Non-Publication Request: No

Early Publication Request: No

Title

Determination of sample volume adequacy in biosensor devices

Preliminary Class

09/25/02
DOCKETED
Correct OFR due 10/05/02
file date

RECEIVED

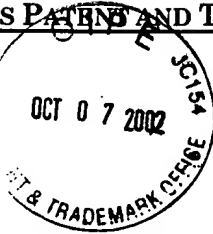
SEP 25 2002

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Paper No. 10

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COPY MAILED

JUL 23 2002

OFFICE OF PETITIONS

In re Application of :
Kermani, et al. :
Application No. 09/974,597 : **DECISION GRANTING PETITION**
Filed: October 10, 2001 :
Attorney Docket No. LIFE-029 :
FOR: DETERMINATION OF SAMPLE VOLUME :
ADEQUACY IN BIOSENSOR DEVICES :

This is a decision on the petition filed April 4, 2002 to accord a filing date of October 10, 2001 to the above-identified application. The petition will be treated under 37 CFR 1.53(e).

The application was deposited on October 10, 2001. However, on November 9, 2001, the Office of Initial Patent Examination mailed a "Notice of Incomplete Nonprovisional Application" requiring drawings of applicants' invention and stating that the filing date would be the date of receipt of the omitted drawings. It is noted that the specification filed on October 10, 2001 describes drawing figures, but no drawing figures were filed on October 10, 2001.

As stated in MPEP 601.01(f), it is the practice of the United States Patent and Trademark Office (PTO) to treat an application that contains at least one process or method claim as an application for which a drawing is not necessary for an understanding of the invention under 35 USC 113 (first sentence.)

MPEP 601.01(f) also states that:

A non provisional application having at least one claim, or a provisional application having at least some disclosure, directed to the subject matter discussed above for which a drawing is usually not considered essential for a filing date, describing drawing figures in the specification, but filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g), so long as the application contains something that can be construed as a written description.

This application contains method claims. Therefore, the application should have been treated as an application filed without all of the drawing figures referred to in the specification as discussed in MPEP 601.01(g).

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JUL 29 2002

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MPEP 601.01(g) states that if an application is filed without all of the drawing figures referred to in the specification, a "Notice of Omitted Items" is mailed indicating that the application has been accorded a filing date, but is lacking some of the figures of drawings described in the specification.

In view of the above, the "Notice" mailed November 9, 2001, insofar as it pertains to the statement ~~that the application was not entitled to a filing date, was mailed in error and is hereby withdrawn.~~

The application is entitled to a filing date of October 10, 2001. The petition is granted.

Petitioners request that drawings figures 1-8 be accorded an October 10, 2001 filing date. Either the drawings were present in the Office on the filing date of the application or they were not. If they were not present on the filing date, they cannot be considered a part of the original disclosure of the application. Applicants do not allege in the petition that drawing figures 1-8 were present in the Office on October 10, 2001, and a review of the file confirms that drawing figures 1-8 were not present on October 10, 2001. Therefore, the application cannot be accorded an October 10, 2001 filing date with the drawings of Figures 1-8 as part of the original disclosure. The issue of new matter is one appropriately addressed during prosecution of the application after the filing date of the application has been determined.

Petitioners must submit a preliminary amendment requesting that the examiner of record consider the proposed drawings of Figures 1-8 for sufficiency of illustration and new matter. See MPEP 608.02.

No petition fee has been or will be charged in connection with the filing date matter. A \$130.00 surcharge for filing a late declaration will be charged to deposit account no. 50-0815.

The application is being returned to the Office of Initial Patent Examination for further processing with a filing date of October 10, 2001 and for indication in PTO records that "0" sheets of drawings were present on filing.

Thereafter, the application will be forwarded to Technology Center 1700 for examination in due course.

Telephone inquiries specific to this matter should be directed to the undersigned at (703) 308-6712.



E. Shirene Willis
Senior Petitions Attorney
Office of Petitions
Office of the Deputy Commissioner
for Patent Examination Policy